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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/476,468	12/30/1999	SAMUEL L. THOMASSON	10205.020	7888

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01/29/2002

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EXAMINER

HAROLD, JEFFEREY F

ART UNIT

PAPER NUMBER

2644

DATE MAILED: 01/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/476,468

Applicant(s)

THOMASSON, SAMUEL L.

Examiner

Jefferey F. Harold

Art Unit

2644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 December 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 6, 10 and 12.

Claim(s) rejected: 1-5, 7, 8 and 11.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See appended for response to arguments.

- Continuation of 2. NOTE: The deletion of "in accordance with the magnitudes of the signals in each band", requires further consideration and/or search.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed December 10, 2001, have been fully considered but they are not persuasive.

Regarding applicant's arguments concerning "center clipping", the examiner maintains that Berkley discloses a speech processor that uses controlled center clipping. There is a direct relationship since applicant's invention and Berkley are drawn to speech processing.

Regarding applicant's arguments concerning "coupling a subset of the filters to the summation junction" and "no multiplex circuit" the examiner respectively disagrees see claim 1 above.

Regarding applicant's argument concerning the text not saying that the processing unit 17 contains multiplexing equipment the examiner respectively disagrees since paths 12 and 13 are integral to the speech processor unit (17), where multiplex equipment is provided.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., multiplex individual filters in those paths) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Art Unit: 2644

Regarding applicant's arguments concerning "1/2 octave", the examiner respectively disagrees, since Berkley simply states that the 1/3 octave filter may be used at the top of frequency band. There is no disclosure of using a single filter.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., apparatus for performing the step of finding the band with the largest signal) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding applicant's argument concerning "greater", the examiner respectively disagrees, since by the determining the greater of a set, one is provided with the greatest.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is based on knowledge generally available to one of ordinary skill in the art. Applicant is further directed to pages 6-8 of the previous office action for the specific motivation.

Art Unit: 2644

Regarding applicant's arguments concerning "allocating", the examiner respectively disagrees, since Petri discloses in column 4, lines 5-6, support for allocating the respective channels.

Regarding applicant's arguments concerning "duration of a signal", the examiner directs applicant to the above rejection where it is clear that support is found at column 4, lines 40-68 and exhibited in figure 4.

Regarding applicant's arguments concerning "a multiplex circuit", the examiner respectively disagrees, since the combination of the references more than adequately meets the claimed limitations.

Conclusion


2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jefferey F. Harold whose telephone number is (703) 306-5836. The examiner can normally be reached on Monday-Friday 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



JFH
January 25, 2002



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